

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-34265

Priority: August 04, 2016

Maximum Diversion Volume: 113.7 AF

This is to certify, that RIVERS END NEIGHBORHOOD ASSN INC
9601 W STATE #203
BOISE ID 83714

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	113.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L7 (SW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L8 (SE1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L2 (NW1/4NE1/4)	Sec. 21,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L2 (NW1/4NE1/4)	Sec. 21,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 21,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 21,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 21,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 21,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L1 (NE1/4NE1/4)	Sec. 21,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (NW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (NW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County
GROUND WATER	L7 (SW1/4SE1/4)	Sec. 16,	Twp 04N,	Rge 01E, B.M.	ADA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
04N	01E	16													X	X	X		
															L7	L7	L8		
04N	01E	21	X	X															
			L1	L2															

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-34265

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2017**.
2. Subject to all prior water rights.
3. Rights 63-31515, 63-33400, and 63-34265 authorize total annual storage volume of 184.4 acre-feet; 163.2 acre-feet to be used for the initial filling or carryover storage of the ponds and 21.2 acre-feet for the replacement of losses caused by evaporation.
4. The seventeen (17) ponds established by the storage of water under rights 63-31515, 63-33400, and 63-34265 shall not exceed a total capacity of 163.2 acre-feet or a total surface area of 12 acres.
5. To mitigate for the depletion of water resulting from the use of water under combined rights 63-31515, 63-33400, and 63-34265, and to prevent injury to senior water right holders, the right holder shall cease diverting and using water as authorized by the following water right for the purposes and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the right is being dedicated to mitigation purposes.

Right No.	Use Changed to Mitigation	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
63-32614	Irrigation	1.58	355.5	79.0

- The land that will no longer be irrigated under this right is located within the SE1/4, Section 16 and N1/2NE1/4, Section 21, Township 04N, Range 01E, B.M. If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the right holder shall immediately implement an alternative mitigation plan approved by the department.
6. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
 7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
 8. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
 9. Water bearing zone to be appropriated is 0 to 15 feet.
 10. Water stored under this right is subject to fluctuations of the water table caused by changes in the flow of local streams and by diversions under prior ground water rights. This right does not guarantee the maintenance of any particular ground water level.
 11. This right does not grant any right-of-way or easement across the land of another.
 12. Place of use and points of diversion are located within lots 1, 16, 23, 29, 30, 32, and 33 of block 1, lots 1 and 12 of block 2, lot 1 of block 3, lots 2, 11, and 21 of block 6, lot 2 of block 7, and lot 1 of block 9, Rivers End Subdivision.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 2nd day of November, 2016.


Nick Miller
Manager, IDWR Western Region

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

63-34265

This map depicts the AESTHETIC STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.075 0.15 0.3 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

November 2, 2016

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

RIVERS END NEIGHBORHOOD ASSN INC
9601 W STATE #203
BOISE ID 83714

RE: Permit No.63-34265

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208)334-2190.

Sincerely,

A handwritten signature in black ink that reads "Rachel Neely for". The signature is written in a cursive, flowing style.

Nick Miller
Western Regional Manager

Enclosure(s)

cc: ERO RESOURCES CORP

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2016 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 63-34265

**ERO RESOURCES CORP
C/O DAVID SHAW
4001 E MAIN ST
EMMETT ID 83617**

**RIVERS END NEIGHBORHOOD ASSN INC
9601 W STATE #203
BOISE ID 83714**



**Rachel Neely
Administrative Assistant**

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

LEGAL PROOF OF PUBLICATION

Account #	Ad Number	Identification	PO	Amount	Cols	Lines
283978	0002706943	LEGAL NOTICE The following applications have	Carney	\$245.23	2	77

Attention: RACHEL NEELY

IDAHO DEPT OF WATER RESOURCES / WEST
2735 AIRPORT WAY
BOISE, ID 837055082

LEGAL NOTICE

The following applications have been filed to appropriate the public waters of the State of Idaho:

63-33978
ERIC MC CARNEY
5930 HOLLILYNN DR
BOISE, ID 83709
Point of Diversion NESE S7 T02N R02E ADA County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.09 CFS
Total Diversion: 0.13 CFS
Date Filed: 8/1/2014
Places of Use: IRRIGATION, DOMESTIC
T02N R02E S7 NESE
Total Acres: 3
Water bearing zone to be appropriated is from 190 to 375 feet.

✓OK RN 10/25/16

63-34243
DOUGLAS M POGUE
PAMELA J POGUE
6954 W HOLLILYNN DR
BOISE, ID 83709
Point of Diversion L3(NWSW) S7 T02N R02E ADA County Source GROUND WATER
Use: DOMESTIC 01/01 to 12/31 0.04 CFS
Use: IRRIGATION 03/01 to 11/15 0.05 CFS
Use: RECREATION 01/01 to 12/31 0.02 CFS
Total Diversion: 0.11 CFS
Date Filed: 6/1/2016
Places of Use: DOMESTIC, IRRIGATION, RECREATION
T02N R02E S7 L3(NWSW)
Total Acres: 1.5
Water bearing zone to be appropriated is from 218 to 335 feet.

✓OK RN 10/25/16

63-34265
RIVERS END NEIGHBORHOOD ASSN INC
9601 W STATE #203
BOISE, ID 83714
(7)Points of Diversion L7(SWSE) S16 T04N R01E ADA County Source GROUND WATER
Point of Diversion L8(SESE) S16 T04N R01E ADA County Source GROUND WATER
(5)Points of Diversion L1(NENE) S21 T04N R01E ADA County Source GROUND WATER
(2)Points of Diversion L2(NWNE) S21 T04N R01E ADA County Source GROUND WATER
(2)Points of Diversion L7(NWSE) S16 T04N R01E ADA County Source GROUND WATER
Use: AESTHETIC STORAGE 01/01 to 12/31 113.7 AF
Total Diversion: 113.7 AF
Date Filed: 8/4/2016
Place of Use: AESTHETIC STORAGE
T04N R01E S16 L7(NWSE) L7(SWSE) L8(SESE)
T04N R01E S21 L1(NENE) L2(NWNE)
Water bearing zone to be appropriated is from 0 to 15.3 feet.

✓OK RN 10/25/16

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov/WaterManagement/WaterRights. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 10/24/2016. The protestant must also send a copy of the protest to the applicant.
GARY SPACKMAN, Director

Pub. Oct. 6, 13, 2016

0002706943-01

RECEIVED

OCT 20 2016

WATER RESOURCES
WESTERN REGION

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in The Idaho Statesman, in conformity with Section 60-108, Idaho Code, as amended, for:

2 Insertions

Beginning issue of: 10/06/2016

Ending issue of: 10/13/2016

Janice Hildreth
(Legals Clerk)

STATE OF IDAHO)

..SS

COUNTY OF ADA)

On this 13th day of October in the year of 2016 before me, a Notary Public, personally appeared before me Janice Hildreth known or identified to me to be the person whose name subscribed to the within instrument, and being by first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Anna Gomm

Notary Public FOR Idaho

Residing at: Boise, Idaho

My Commission expires: 08/17/2022

